

Increase competition and threat to Net Neutrality and Open Internet will be defeated/weakened.

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Net Neutrality: The Wrong FCC Decision. The Wrong Legal Opinion. The Wrong Fight ?
Infrastructure, Competition and Control Over the Network Are the Issues, Not Net Neutrality.

Opening the Networks in a Traditional Way Will Not Solve the Current Problems.

Is It Time to Give AT&T the ?Broadband? Networks and We Keep the ?Public Switched Telephone Networks??

>Is Net neutrality dead? CNET Many people are wondering if the recent appeals court >decision
>against the Federal Communications Commission means it's curtains for an open Internet.

>http://news.cnet.com/8301-30686_3-20001886-266.html?part=rss&subj=news&tag=2547-1_3-0-20

A recent court decision ruled (with caveats) that the FCC did not have the authority over the cable companies? Internet service provisioning, and the complications known as ?Net Neutrality? (NN), such as blocking or in some way limiting a customer?s service. Unfortunately, NN is simply a failure of a market without adequate competition.

We have been dragged off the focus of the real issue, the infrastructure. There is a phone and cable wire in homes and businesses, etc. Those wires should allow someone to pick and choose the

services over that wire, and if their Internet or broadband provider blocks or degrades their service, the customer can find another provider. Instead, there are only 2 providers in most markets with the same collusive-conditions ? block all competition. You can't go elsewhere.

Thus, even if the Net Neutrality issue was "cured" by the FCC, the problems are much deeper and they would still continue to plague America's broadband, Internet and phone customers.

The underlying problem is that the phone and cable companies have taken control of America's critical infrastructure ---that is the core issue which no one wants to address. And under their control over the last 25 years, the phone companies failed to adequately upgrade the infrastructure. America is now 15th in the world in broadband, and now every plan is about "workarounds" of the incumbents or filling "deployment" holes left from the companies' incompetence or more realistically ? greed over public interest.

And it wasn't because AT&T, Verizon et al didn't receive financial incentives. As we have written previously, the phone companies made massive commitments to rewire entire states, schools, libraries, etc., and received billions per state to do these upgrades? yet, the work was never done. See our report on the subject outlining the fiber optic plans of AT&T, Verizon and Qwest that were supposed to be completed, paid through the financial incentives given in 26 states.
<http://www.newnetworks.com/FCCCITlbroadband.pdf>

We estimate the companies already received \$320 billion and counting, as the companies continue to get phone rate increases to pay for fiber optics and other services.

Thus, vesting control to AT&T and Verizon has not proven to be a wise move when America's infrastructure is at stake.

But it gets worse and more devious. Not only was the money to be used to upgrade the states' utilities, the Public Switched Telephone Networks, pocketed by the companies, but just to show you

how slight-of-hand this "broadband network" discussion goes, AT&T is now claiming that there are really two different networks "the old "Public Switched Telephone Networks", (PSTN), also known as the state phone utilities, and the new shiny "broadband network".

In fact, AT&T has filed with the FCC to start to close down the Public Switched Telephone Networks. It claims that the PSTN is a drain on broadband investment. We've written about this previously:

http://www.niemanwatchdog.org/index.cfm?fuseaction=ask_this.view&askthisid=00443

It's absurd on its face because there is really only 1 phone network, the critical telecommunications infrastructure of the state, collectively called the state utilities --- and we believe that they have been hijacked illegally. Let me explain: It was the utilities that were supposed to be upgraded to fiber optic services. It was the utilities that were opened to all forms of competition by the Telecom Act and state laws and it is the utilities that are currently funding Verizon and AT&T's new networks in the form of higher phone rates, which keep getting raised.

And yet, over a 25 year history, there's been a total failure to properly upgrade these utilities "the Public Switch Telephone Networks". The failure is clear; we're 15th in the world in broadband for a reason ---and after 25 years of AT&T and Verizon's rule, we sit here today and are bickering about net neutrality.

Opening the networks in a traditional way will not solve the current problems.

There are many who call for "opening" the networks for competition. We've been on record supporting fully opened infrastructure since 1992. The current strategy is centered on an "arcane" but important definitional issue that is haunting this entire discussion --- "telecommunication service" vs "Interstate information service". The previous FCC reversed the Telecom Act when the agency

closed competition by changing a definition ? claiming that broadband (a former telecommunications service) and the Internet service (that rides over the infrastructure) was one product ? an ?interstate information service? and not a ?telecommunications? service.

And what it means in English is ? Telecommunication services have obligations. ?Interstate information services? do not (with caveats). And AT&T, Verizon and the cablecos obviously do not want obligations. I also note that this argument is also jargonized in the industry by calling telecommunications services ?Title II?; other areas have different ?titles?.

But it is more than that. Telecommunications services would allow for competition; interstate information services do not have that obligation.

Unfortunately, there is a dark caveat ?The history of the previous opening of the networks in 1996 shows us that simply reopening the networks can?t work. The reason is that the phone companies will harm the competitors in many ways that helps to put them out of business, but also harms customers who use the competitors as they are the brunt of the incumbents? unstated rule to harm competition. Worse, they would still be in control of the networks; they would still have power over the agenda, pricing etc.

If you believe in a fairly-priced, vibrant, fiber optic, really, really fast, open to all competitors, broadband future, there is only one solution:

Separate Verizon and AT&T?s broadband networks from the local phone utilities. Since AT&T claims there are 2 networks ? a broadband network and the ?PSTN?, the utilities --- Then let?s give AT&T what it wants ? the ?broadband network?, which today is just a phantom in accounting, as AT&T?s entire broadband product U-Verse, travels over the existing phone utility wires. Verizon?s FIOS, is, at best, a fulfillment of state obligations to upgrade the utility. (For example, 100%, the entire state of New Jersey?s PSTN is supposed to be upgraded with fiber optic services by 2010.)

The other reason to do this would be to stop the illegal flows of money going from the utilities today, including the major phone rate increases, to fund the companies' other products and services. Under the old utility models, extra profits were created by raising rates to pay for broadband. Today, the company has been draining the utilities money -- having local ratepayers illegally fund other projects, sometimes even overseas.

Also, we estimate that over the last two decades customers paid about \$3000.00 per household in customer overcharging, meaning that the customers ended up as "defacto" (*read illegal) investors, as they were charged for a fiber optic service they never received. And, schools, libraries and hospitals in many states were also to be upgraded to fiber optics. Shouldn't the state investigate whether we're paying and paying and paying for the same services that never got deployed?

Stopping the flow of monies out of the utilities would be sufficient to supply everyone in the state with fiber-based broadband; no need for any more funding. Prices would go down as the "broadband" companies would actually have to pay for items like "advertising" which they now mooch for free.

The utilities are also required to be "ubiquitous" -- today, everyone has phone service available as part of the law. In most states, the broadband plans called for everyone, low to high income neighborhoods, rural, urban and suburban municipalities alike to be served.

Another benefit would be that these networks would be open to competition. While the wire may be "regulated" as there are not going to be lots of companies to rewire the states, and since the plan was and should be to upgrade the current obligation -- phone service for everyone with a new wire that can handle faster speeds -- competition was also part of state and even federal laws. The Telecom Act of 1996, as well as state laws all had provisions for competition. It drives innovation, growth of the economy. More to the point, since customers were are still defacto investors, customers were supposed to have choices for service providers. Separating the companies from the wires would guarantee choice.

And competition solves the Net Neutrality problem --- You get harmed, you find someone else. Let the market, not the duopoly, control the companies' behavior.

One other serious concern today and the future: Stop the continuous rate increases, especially on low income, low volume customers that are happening in almost every state ? in the name of broadband. New York State's Department of Public Service has raised Verizon's rates 90% since 2004 on basic service, while the FCC is planning 4 different new ways to charge customers, including raising Universal Service, the addition of a new tax, and having states do more rate increases, including the FCC raising the ?FCC Line Charge?.

Over 1/3 of the US are low volume customers, (many seniors,) low income families who should not be thrown under the regulatory bus. The fact that no regulator has actually audited the money flow, much less accurately tracked what happened to consumers is just another slap in the public's face that needs to be fixed immediately. Ripping off Aunt Ethel does not fall into the category of ?fair and reasonable?, last time I looked.

In short, Net Neutrality is a symptom of a larger problem. Breaking up AT&T and Verizon would be better than what we have today ? A ?Please Sir, may I have another?? market where those who were the caretakers of, that's the ?Public Switched Telephone Networks?, failed for 25 years to properly upgrade the networks, and yet now claim it's private property for personal use.

Trust them again? You got to be kidding me.

So, let's give AT&T what it wants: AT&T, you keep your broadband networks. We'll take back the utilities and use the current funding to do the upgrades. Please make sure you pay us back for all of the monies that you have received over the last two decades for network upgrades that you were required to do and never did, and the use of the utility rights of way and advertising and?

Sound unreasonable? Hardly. 26 years ago AT&T was broken up because of its market power. The Telecom Act of 1996 failed to open and keep open the "last" mile, the wiring to customers' homes, businesses, etc. And the mergers helped to rebuild Humpty Dumpty. As a country we have nothing to show for it ? We're 15th in the world. Hong Kong, Korea and France has services 20 times faster for the same costs.

And now they want to even degrade, block or harm your service. There's no competition to go to, is there? We need to break up Ma bell? again.

For a full discussion of the last 25 years of telecommunications history, including AT&T, Verizon and Qwest's revenues, profits, construction, employees, etc--- or a plan on how to restructure telecommunications see:

AT&T Breakup 25th Anniversary event. <http://www.isoc-ny.org/?p=618>